*Products Co.* v. *United States,* 288 U. S. 294, 315; *Brown* v. *United States,* 113 U. S. 568, 571.

The other sections of the Act are consistent with this construction of § 305. Section 307 permits the insured, if totally disabled, to make claim under his converted policy and entitles him to the benefits of that policy "if found entitled thereto." See *United States* v. *Arzner,* 287 U. S. 470, 473. But it is plain that respondent is not "entitled" to total disability benefits under the original policy, within the meaning of § 307, because the total disability did not occur until after its conversion. Section 307 does not, either by its terms or by reasonable implication, extend the privileges of § 305 to converted insurance. The legislative history of § 307 does not disclose any purpose to amend § 305, or to depart from its policy, and in any case the modification by implication of the settled construction of an earlier and different section is not favored. *United States* v. *Munday,* 222 U. S. 175, 182; *Ibanez* v. *Hongkong Banking Corp.,* 246 U. S. 621, 626. The right of respondent to revive his insurance is limited to the lapsed twenty-payment life policy.

*Reversed.*

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## SONZINSKY *v.* UNITED STATES.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

No. 614. Argued March 12, 1937.—Decided March 29, 1937.

1. That part of the National Firearms Act which provides that every dealer in firearms shall register and shall pay an annual tax of $200 or be subject to fine and imprisonment, is a valid exercise of the taxing power of Congress. Pp. 511 et seq.

   The term "firearm" is defined by § 1 of the Act as meaning a shotgun or rifle having a barrel less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive, if capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm.

2. Congress may select the subjects of taxation, choosing some and omitting others. It may impose excise taxes on the doing of business. P. 512.
3. The tax upon dealers, *supra*, is not in the category of penalties imposed for the enforcement of regulations beyond the scope of congressional power. P. 513.
4. A tax may have regulatory effects and may burden, restrict or suppress the thing taxed, and still be within the taxing power. P. 513.
5. Courts may not inquire into the motives of Congress in exercising its powers; they will not undertake, by collateral inquiry as to the measure of the regulatory effect of a tax, to ascribe to Congress an attempt, under the guise of taxation, to exercise another power denied by the Federal Constitution. P. 513.
6. The Court declines to consider petitioner's contentions not supported by assignment of error. P. 514.

86 F. (2d) 486, affirmed.

CERTIORARI, *post*, p. 648, to review a judgment affirming a conviction under the National Firearms Act.

*Mr. Harold J. Bandy*, with whom *Mr. John M. Karns* was on the brief, for petitioner.

Congress is not empowered to tax for those purposes which are within the exclusive province of the States. *United States* v. *Butler*, 297 U. S. 1, 64; *Gibbons* v. *Ogden*, 9 Wheat. 1, 199.

Beneficent aims can never serve in lieu of constitutional power. *Carter* v. *Carter Coal Co.*, 298 U. S. 38.

An exaction, called a tax, which is in fact and effect a penalty, is not a tax. While the lawmaker is entirely free to ignore the ordinary meaning of words and make definitions of his own, that device may not be employed so as to change the nature of acts or things to which the words are applied. *Carter* v. *Carter Coal Co.*, *supra*; *Bailey* v. *Drexel Furniture Co.*, 259 U. S. 20; *United States* v. *LaFranca*, 282 U. S. 568, 572; *United States* v. *Constantine*, 296 U. S. 287, 293; *United States* v. *Butler*, *supra*.

The Constitution made no grant of authority to Congress to legislate substantively for the general welfare, and no such authority exists, save as the general welfare may be promoted by the exercise of the powers which are granted. Cases *supra.*

The power of taxation which is expressly granted may be adopted as a means to carry into operation another power also expressly granted, but resort to the taxing power to effectuate an end which is not legitimate, not within the scope of the Constitution, is obviously inadmissible. Cases *supra.*

If the Constitution, in its grant of powers, is to be so construed as to carry into full effect the power granted, it is equally imperative that, where a prohibition or limitation is placed upon the power of Congress, that prohibition or limitation should be enforced in its spirit and to its entirety. *Fairbanks* v. *United States,* 181 U. S. 312.

A mere reading of the National Firearms Act discloses that it was enacted for the purpose of regulating or suppressing traffic in the firearms described in the Act; that it was not enacted for the purpose of collecting any taxes; that it was passed as a police measure, as an aid to local law enforcement, and not as a revenue law. While it is true that, where the law merely imposes the tax without disclosing the indirect purpose of its imposition, the courts might hesitate to declare the law unconstitutional, on the other hand, if the real purpose of the law is disclosed on its face to be a purpose that invades the police powers reserved to the individual States, the courts should not hesitate to declare the Act an unconstitutional usurpation by the Federal Government of powers reserved to the States by the Tenth Amendment. Cooley, Const. L., pp. 56–60; *Citizens Savings & Loan Assn.* v. *Topeka,* 20 Wall. 655; *Powell* v. *Pennsylvania,* 127 U. S. 678.

Under the American constitutional system, the police power, being an attribute of sovereignty inherent in the original States, and not delegated by the Federal Constitution to the United States, remains with the individual States. *New Orleans Gas Light Co.* v. *Louisiana Light Co.,* 115 U. S. 650; *Plumley* v. *Massachusetts,* 155 U. S. 461; *United States* v. *L. C. Knight Co.,* 156 U. S. 1; *Connolly* v. *Union Sewer Pipe Co.,* 184 U. S. 540.

Whatever may be the motive or pretext of a statute, or in whatever language it may be framed, its real purpose and the question of its validity must be determined by its natural and reasonable effect to be ascertained from its practical operation. *Henderson* v. *New York,* 92 U. S. 259; *Morgan's Co.* v. *Board of Health,* 118 U. S. 455; *Collins* v. *New Hampshire,* 171 U. S. 30; *Mugler* v. *Kansas,* 123 U. S. 623; *Fairbanks* v. *United States,* 181 U. S. 283; *Postal Telegraph Co.* v. *Adams,* 155 U. S. 688.

It is apparent from reading the National Firearms Act that Congress had no intention of framing a law that would procure any revenue for the Government. In the instant case, the effect of the application of the law to petitioner is to require him to pay a dealer's annual tax of $200.00 and to pay a transfer tax of an additional $200.00 for the privilege of handling and selling a commodity of the value of only $10.00. The Act further subjects petitioner to the payment of a fine and to imprisonment of not to exceed five years if he should fail to pay the penalties required of him. These facts demonstrate, without the possibility of contradiction, that the purpose was not not to tax a business, but to prohibit it. It is inconceivable that anyone would anticipate that a dealer within the definition of § 2 of the Act could possibly pay the penalty required by the Act. The amount of a levy that a statute makes upon business frequently forms the basis of jurisdictional action and determines the validity

of legislation. The courts have found no insuperable difficulty in determining the difference between a tax and a penalty. *Bailey* v. *Drexel Furniture Co.*, 259 U. S. 20; *Atlantic & Pacific Telegraph Co.* v. *Philadelphia*, 190 U. S. 160; *Smyth* v. *Ames*, 169 U. S. 466; *Linder* v. *United States*, 268 U. S. 5.

The classification made by the Act is arbitrary and unreasonable. It discriminates against one dealer in favor of another, without stating any justification for so doing. *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540; *Oliver* v. *Washington Mills*, 11 Allen 265.

It is the duty of a reviewing court to review the testimony and reverse the conviction if there is no evidence whatever to support it. *Miles* v. *United States*, 103 U. S. 304; *Degnan* v. *United States*, 271 Fed. 291; *Applebaum* v. *United States*, 274 Fed. 43.

*Assistant Attorney General McMahon*, with whom *Solicitor General Reed* and *Messrs. Gordon Dean* and *William W. Barron* were on the brief, for the United States.

The authority of Congress to enact this statute is found in Art. I, § 8, cl. 1 of the Constitution.

It is no objection that the size of the tax tends to burden and discourage the conduct of the occupation of petitioner. Cf. *Magnano Co.* v. *Hamilton*, 292 U. S. 40. Nor is it material that Congress may have anticipated and even intended such an effect. Where a tax is laid on a proper subject and discloses a revenue purpose, it is of no consequence that social, or moral, or economic factors may have been considered by Congress in enacting the measure. *McCray* v. *United States*, 195 U. S. 27; *United States* v. *Doremus*, 249 U. S. 86; *Nigro* v. *United States*, 276 U. S. 332; *Hampton & Co.* v. *United States*, 276 U. S. 394. The cases relied upon by petitioner are distinguishable. They involve penalties for failure to comply with

federal regulations deemed to be beyond the power of Congress.

Petitioner's contention that the statute involves an unreasonable classification is merely an attack on the selection by Congress of the objects of taxation, and is untenable. His further insistence that the evidence does not support the judgment of conviction presses a contention not within the limits of the order granting the writ of certiorari.

MR. JUSTICE STONE delivered the opinion of the Court.

The question for decision is whether § 2 of the National Firearms Act of June 26, 1934, c. 757, 48 Stat. 1236, 26 U. S. C., §§ 1132–1132 q, which imposes a $200 annual license tax on dealers in firearms, is a constitutional exercise of the legislative power of Congress.

Petitioner was convicted by the District Court for Eastern Illinois on two counts of an indictment, the first charging him with violation of § 2, by dealing in firearms without payment of the tax. On appeal the Court of Appeals set aside the conviction on the second count and affirmed on the first. 86 F. (2d) 486. On petition of the accused we granted certiorari, limited to the question of the constitutional validity of the statute in its application under the first count in the indictment.

Section 2 of the National Firearms Act requires every dealer in firearms to register with the Collector of Internal Revenue in the district where he carries on business, and to pay a special excise tax of $200 a year. Importers or manufacturers are taxed $500 a year. Section 3 imposes a tax of $200 on each transfer of a firearm, payable by the transferor, and § 4 prescribes regulations for the identification of purchasers. The term "firearm" is defined by § 1 as meaning a shotgun or a rifle having a barrel less than eighteen inches in length, or any other weapon, ex-

cept a pistol or revolver, from which a shot is discharged by an explosive, if capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm. As the conviction for non-payment of the tax exacted by § 2 has alone been sustained, it is unnecessary to inquire whether the different tax levied by § 3 and the regulations pertaining to it are valid. Section 16 declares that the provisions of the Act are separable. Each tax is on a different activity and is collectible independently of the other. Full effect may be given to the license tax standing alone, even though all other provisions are invalid. *Weller* v. *New York,* 268 U. S. 319; *Field* v. *Clark,* 143 U. S. 649, 697; cf. *Champlin Refining Co.* v. *Commission,* 286 U. S. 210, 234.

In the exercise of its constitutional power to lay taxes, Congress may select the subjects of taxation, choosing some and omitting others. See *Flint* v. *Stone Tracy Co.,* 220 U. S. 107, 158; *Nicol* v. *Ames,* 173 U. S. 509, 516; *Bromley* v. *McCaughn,* 280 U. S. 124. Its power extends to the imposition of excise taxes upon the doing of business. See *License Tax Cases,* 5 Wall. 462; *Spreckles Sugar Refining Co.* v. *McClain,* 192 U. S. 397, 412; *United States* v. *Doremus,* 249 U. S. 86, 94. Petitioner does not deny that Congress may tax his business as a dealer in firearms. He insists that the present levy is not a true tax, but a penalty imposed for the purpose of suppressing traffic in a certain noxious type of firearms, the local regulation of which is reserved to the states because not granted to the national government. To establish its penal and prohibitive character, he relies on the amounts of the tax imposed by § 2 on dealers, manufacturers and importers, and of the tax imposed by § 3 on each transfer of a "firearm," payable by the transferor. The cumulative effect on the distribution of a limited class of firearms, of relatively small value, by the successive imposition of different taxes, one on the

business of the importer or manufacturer, another on that of the dealer, and a third on the transfer to a buyer, is said to be prohibitive in effect and to disclose unmistakably the legislative purpose to regulate rather than to tax.

The case is not one where the statute contains regulatory provisions related to a purported tax in such a way as has enabled this Court to say in other cases that the latter is a penalty resorted to as a means of enforcing the regulations. See *Child Labor Tax Case,* 259 U. S. 20, 35; *Hill* v. *Wallace,* 259 U. S. 44; *Carter* v. *Carter Coal Co.,* 298 U. S. 238. Nor is the subject of the tax described or treated as criminal by the taxing statute. Compare *United States* v. *Constantine,* 296 U. S. 287. Here § 2 contains no regulation other than the mere registration provisions, which are obviously supportable as in aid of a revenue purpose. On its face it is only a taxing measure, and we are asked to say that the tax, by virtue of its deterrent effect on the activities taxed, operates as a regulation which is beyond the congressional power.

Every tax is in some measure regulatory. To some extent it interposes an economic impediment to the activity taxed as compared with others not taxed. But a tax is not any the less a tax because it has a regulatory effect, *United States* v. *Doremus, supra,* 93, 94; *Nigro* v. *United States,* 276 U. S. 332, 353, 354; *License Tax Cases, supra;* see *Child Labor Tax Case, supra,* 38; and it has long been established that an Act of Congress which on its face purports to be an exercise of the taxing power is not any the less so because the tax is burdensome or tends to restrict or suppress the thing taxed. *Veazie Bank* v. *Fenno,* 8 Wall. 533, 548; *McCray* v. *United States,* 195 U. S. 27, 60–61; cf. *Alaska Fish Co.* v. *Smith,* 255 U. S. 44, 48.

Inquiry into the hidden motives which may move Congress to exercise a power constitutionally conferred upon

it is beyond the competency of courts. *Veazie Bank* v. *Fenno, supra; McCray* v. *United States, supra,* 56–59; *United States* v. *Doremus, supra,* 93–94; see *Magnano Co.* v. *Hamilton,* 292 U. S. 40, 44, 45; cf. *Arizona* v. *California,* 283 U. S. 423, 455; *Smith* v. *Kansas City Title Co.,* 255 U. S. 180, 210; *Weber* v. *Freed,* 239 U. S. 325, 329–330; *Fletcher* v. *Peck,* 6 Cranch 87, 130. They will not undertake, by collateral inquiry as to the measure of the regulatory effect of a tax, to ascribe to Congress an attempt, under the guise of taxation, to exercise another power denied by the Federal Constitution. *McCray* v. *United States, supra;* cf. *Magnano Co.* v. *Hamilton, supra,* 45.

Here the annual tax of $200 is productive of some revenue.[1] We are not free to speculate as to the motives which moved Congress to impose it, or as to the extent to which it may operate to restrict the activities taxed. As it is not attended by an offensive regulation, and since it operates as a tax, it is within the national taxing power. *Alston* v. *United States,* 274 U. S. 289, 294; *Nigro* v. *United States, supra,* 352, 353; *Hampton & Co.* v. *United States,* 276 U. S. 394, 411, 413.

We do not discuss petitioner's contentions which he failed to assign as error below.

*Affirmed.*

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[1] The $200 tax was paid by 27 dealers in 1934, and by 22 dealers in 1935. Annual Report of the Commissioner of Internal Revenue, Fiscal Year Ended June 30, 1935, pp. 129–131; *id.,* Fiscal Year ended June 30, 1936, pp. 139–141.